
CHAPTER VII ACTS FOR CONSUMER PROTECTION

List of Acts

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CHAPTER - VII

ACTS FOR CONSUMER PROTECTION

The Government has over the years put on the statute book an impressive array of laws for the protection of consumers. Following are the acts applicable for consumer protection.

1. Sale of Goods Act, 1930
2. Agricultural Produce [Grading and Marketing] Act, 1937
3. Drug [Control] Act.
4. Drugs and Cosmetics Act, 1940.
5. Drug and Magic Remedies [Objectionable Advertisement] Act, 1954.
6. Prevention of Food Adulteration Act, 1954.
7. Indian Standards Institution [Certificate of Marks] Act, 1956.
8. Standards of Weights and Measures Act, 1956.
9. Essential Commodities Act, 1955.
10. The Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980.
11. Trade and Merchandise Marks Act, 1958
12. Indian Contract Act, 1872.
13. Hire Purchase Act, 1972.
14. Packaged Commodities Rules 1977.
15. Monopolies and Restrictive Practices Act, 1969. /Trade
16. Household Electrical Appliances [Quality Control] Order, 1976.
17. Consumer Protection Act, 1986. and Consumer Protection Rules 1987.

Is Legislation total answer to Consumerism?

If one turns to Guinness Book of Records under the heading 'Laws' he will find that maximum number of laws in any country is in India, including consumer laws.¹

Legislation helps to know exactly the nature of dishonesty. There are people who search for loopholes and they do find them and exploit the loopholes to make profit without breaking the law. On the balance, legislation and government agencies are not a 'cure all' for consumer complaints.

According to Smt. Jajie Mandana a great consumerist, "Our laws are not really lax or wanting- - - - - If our laws lack teeth, it is because our legal processes are slow, and our enforcement agencies lack vigour, speed and competence".

L.M.Singhvi writes in 'Law and Consumer, [article in Indian Express March 27, 1980] "The difference between law and law in practice is too glaring in developing countries like India" " - - -- the conventional sword and shields and antiquated bows and arrows [of consumers] are unequal to the modern armoury of the present day marketing systems".

The law helps those who help themselves. Hence, consumerism is necessary.

A Brief Description of Some of the Acts Applicable for Consumer Protection.

1. Prevention of Food Adulteration Act, 1954

[As amended in 1986]

The object of this Act is to prevent food adulteration and protect the consumer. Under Prevention of Food Adulteration Act, adulteration is defined as a deviation from the nature, substance and quality demanded by the purchaser as causing prejudice to the purchaser.

According to the recent amendment brought to this Act, the right to send samples to the Public Analyst for detecting adulteration is given to the consumer forums and to the consumers also [Section 12 of P.F.Act]. Formerly only food inspectors were vested with this power².

2. The Packaged Commodities [Regulation] Order 1975.

This order was prepared as a measure of consumer protection. Its primary objective is to apprise the consumer of the contents, weights, price, month of manufacture and name of manufacturers of several packaged commodities for retail sale.

3. Standards of Weights and Measures Act;

This contains provisions to protect the consumers from fraudulent weighing and measuring of practices. The Indian Institute of Metrology at Ranchi, imparts training to personnel of weights and measures.

4. Essential Commodities Act, 1955:

The purpose of this Act, is to ensure uninterrupted supply of essential commodities like foodgrains, edible oil, kerosene, sugar, cloth, petrol, steel, paper, etc., at reasonable prices. Any violation of the provisions of this Act results in imprisonment upto seven years or penalty or both. To fulfil the purpose of the Act 'Prices and Quality Control' Committees have been formed in every district.

5. The Monopolies & Restrictive Trade Practices Act, 1969:

The MRTP Act is one of the major instruments to ensure consumer protection in India. The Act, brought into force on June 1, 1970 aims at preventing concentration of economic power, controlling monopolies and prohibiting monopolistic and restrictive trade practices. This Act was the only major Act for consumer protection before passing of Consumers Protection Act, 1986.

It is presumed that competition between sellers can protect the consumer through inexorable or impersonal law of demand and supply. In a free market, price mechanism regulates all market conditions objectively and with impartiality. Under Section 2 of MRTP Act any practice which has the effect of "preventing, distorting or restricting competition in any manner" can be treated as a restrictive or unfair trade practice.

The MRTP and the Consumer:

Any consumer organisation having a membership of at least 25 members or 25 consumers even individually may make a writ petition to the Commission about the unfair trade practice.

Even if a single consumer makes a written complaint the commission of its own knowledge or information can start an enquiry. Here is an example of what a public spirited man can do. A man admitted his son to a hospital. The doctor advised two vials of a costly drug. But the chemist told him that he would sell only a pack of 10 vials [against two vials prescribed]. Under pressure of circumstances he bought a pack of 10 and procured a bill. Later, he complained to the Drug Controller and to the M.R.T.P. Commission also.

The Result: M.R.T.P. Commission declared that it was a restrictive practice and warned chemists against such a practice.

The Drug Controller warned the Chemist that it was violation of law to issue ten vials of Schedule I drug against two prescribed by the doctor³.

The price cartels, Resale Price Maintenance, Ring trading, Cartels, exclusion of Members, Differential Discounts, Underselling, Boycotts and other co-ercive devices are regarded as unfair trade practices which can be dealt under the provisions of MRTP Act for ensuring Consumer Protection.

6. Consumer Protection Act, 1986:⁴

Objectives: The Consumer Protection Act, 1986 [68 of 1986] is a milestone in the history of socio-economic legislation in the country. It is one of the most progressive and comprehensive pieces of legislation enacted for the protection of consumers. The new law has been

enacted after in-depth study of consumer protection laws and arrangements in the U.K., U.S.A. Australia and New Zealand.

The main objective of the new law is to provide for the better protection of consumers. Unlike existing laws which are punitive or preventive in nature, the provisions of the Act are compensatory in nature. The Act intends to provide simple, speedy and inexpensive redressal to the consumers grievances. For this purpose, the Act envisages a three tier quasi-judicial machinery at the national, state and district levels. The Act enshrines certain rights of the consumers and provides for the setting up of consumer Protection councils in the Centre and the States. The objective of these Consumer Protection Councils will be to promote and protect the rights of Consumers.

Who is a Consumer? All of us are consumers of goods and services. The producers of some goods and services also consume various other goods and services produced by others.

Who can file a complaint?

Following categories of persons may file a complaint under the Act.

- A Consumer.
- Any voluntary consumer association registered under Societies Registration Act, 1860 or the Companies Act, 1956 or under any other law for the time being in force.
- The Central Government.
- The State Governments or Union Territory Administrators.

What Constitutes a Complaint?

Under the Act, a complaint means any allegation in writing made by a complainant in regard to one or more of the following:

- That he has suffered loss or damage as a result of any unfair trade practices adopted by any trader.
- That the goods mentioned in the complaint suffer from one or more defects.
- That the services mentioned in the complaint suffer from deficiencies in any respect.
- That a trader has charged for the goods mentioned in the complaint a price in excess of the price
 - i] fixed by or under any law for the time being in force; or
 - ii] displayed on goods; or
 - iii] displayed on any packet containing such goods.

Where to File a complaint?

- If the cost of goods or services and compensation asked for, is less than Rupees one lakh, then the complaint can be filed in the District Forum.
- If the cost of goods or services and compensation asked for is more than rupees one lakh but less than rupees ten lakhs, the complaint can be filed before the State Commission.
- If the cost of goods or services and compensation asked for, exceeds rupees ten lakhs, the complaint can be filed before the National Commission at New Delhi.

How to file a Complaint?

Procedures for filing complaints or seeking redressal are simple and speedy.

There is no fee for filing a complaint before the District Forum, the State Forum or the National Commission.

The Complainant or his authorised agent can present the complaint in person.

The Complaint can be sent by post to the appropriate Forum/ Commission.

A Complaint should contain the following information:

- a] the name, description and the address of the complainant;
- b] the name, description and address of the opposite party or parties, as the case may be as far as they can be ascertained;
- c] the facts relating to complaint and when and where it arose;
- d] documents, if any, in support of the allegations contained in the complaint;
- e] the relief which the complainant is seeking.

The complaint should be signed by the complainant or his authorised agent.

Relief Available to Consumers:

Depending on the nature of relief sought by the consumer and facts, the Redressal Forums may give orders for one or more of the following reliefs:-

- a] removal of the defects from the goods;
- b] replacement of the goods;

- c] refund of the price paid; or
- d] award of compensation for the loss or injury suffered.

The Consumer Protection Rules 1987:

These rules have been framed in exercise of the powers conferred by Sub-Section [1] of Section 30 of the Consumer Protection Act, 1986, by the Central Government.

Our country requires consumer OMBUDSMAN [Lokayukta] as in Finland. The Consumer Ombudsman is the Commissioner for Consumers - appointed by the government. He is in charge of enforcing and administration for all laws relating to consumer protection. Consumer Ombudsman is accessible to all Consumers or their associations. In Sweden there is consumer Ombudsman since 1971.⁵

To conclude, no amount of Consumer Protection Bills will help the Indian Consumer, unless he is prepared to help himself.

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4. Consumer Protection Act, 1986 and the salient features of consumer protection Act, 1986.
5. Sherlekar, Trade Practices and consumerism, P.356.